

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-7434
Conference Calendar

DAVID DARRELL MOORE,

Plaintiff-Appellant,

versus

STEVE W. PUCKETT ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:90-CV-602
- - - - -

(May 17, 1994)

Before HIGGINBOTHAM, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

David Darrell Moore argues that the district court should have granted his motion for post-judgment relief because prison officials have not lived up to their promise that he would receive trustee pants in exchange for a voluntary dismissal of his suit. Moore's reasons on appeal why the court should have granted his post-judgment motion differ from the reasons raised in the district court. His argument in the district court was that he understood that his voluntary dismissal was as to the prison officials only. He has abandoned this argument on appeal.

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

He argues for the first time on appeal that he is entitled to relief from the court's order of voluntary dismissal because the defendants have not provided him with trustee pants.

This Court does not review issues raised for the first time on appeal unless they are purely legal and to refuse to do so would result in a miscarriage of justice. See United States v. Garcia-Pillado, 898 F.2d 36, 39 (5th Cir. 1990). Whether Moore is entitled to post-judgment relief because the defendants have not provided him with trustee pants is not a purely legal question. Moreover, the court need not address Moore's district court argument that he misunderstood the terms of the voluntary dismissal because issues not briefed are deemed abandoned. See Fed. R. App. P. 28(a)(4); United States v. Garcia-Flores, 906 F.2d 147, 148 (5th Cir. 1990). Consequently, the district court's denial of post-judgment relief is AFFIRMED.

Moore further contends that the district court erred when it denied his motion to consolidate. Moore's motion to consolidate was filed after the district court granted his motion to voluntarily dismiss his suit with prejudice. Given that the district court's denial of Moore's motion for post-judgment relief is affirmed, the Court need not address this issue.